

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RAMON GUILLEN OCHOA,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. 2:21-cv-00222-RFB-NJK

Order

[Docket No. 10]

Pending before the Court is Defendant's motion to stay discovery pending resolution of its motion to dismiss. Docket No. 10; *see also* Docket No. 8 (motion to dismiss). Plaintiff failed to respond in opposition. The motion to stay discovery is properly resolved without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion to stay discovery is **GRANTED**.

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed absent a "strong showing" to the contrary. *Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to stay discovery may be granted when: (1) the underlying motion is potentially dispositive in scope and effect; (2) the underlying motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the underlying motion and is convinced that the plaintiff will be unable to prevail.¹ *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D.

¹ Conducting the "preliminary peek" puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not provide a lengthy description of the merits of the pending motion to dismiss in this instance.

1 Nev. 2013). The Court is guided in its analysis by the objectives in Rule 1 to secure a just, speedy,
2 and inexpensive determination of cases. *Tradebay*, 278 F.R.D. at 602.

3 The Court is satisfied that a stay of discovery is appropriate in this case. As to the first two
4 requirements, the motion to dismiss is potentially dispositive of this case and it can be decided
5 without discovery. As to the third requirement, the undersigned's evaluation of the motion to
6 dismiss reveals that it is sufficiently meritorious to justify a stay of discovery.

7 Accordingly, Defendant's motion to stay discovery (Docket No. 10) is **GRANTED**. In
8 the event resolution of Defendant's motion to dismiss does not result in the termination of this
9 case, the parties must file a joint proposed discovery plan no later than seven days after the entry
10 of the order resolving the motion to dismiss.

11 IT IS SO ORDERED.

12 Dated: August 20, 2021

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Nancy J. Koppe
United States Magistrate Judge

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28 Nonetheless, the undersigned has carefully reviewed the arguments presented in the motion to
dismiss and subsequent briefing.